

COMMENT ON ONTARIO'S SOURCE WATERSHED PROTECTION PLAN

Ontario is contemplating creation of the strongest system in the Great Lakes basin for protecting sources of drinking water from contamination by pollution and improving its water takings system so that it better protects both drinking water and ecosystems.

The province has released a White Paper on the plan and is accepting comment until this Wednesday, April 14. See below for contact information. Public comment will help assure that the government carries out its comment to protect source waters, and strengthen the specific elements of the plan it has proposed.

Background

After the 2001 contaminated drinking water tragedy in Walkerton, Ontario, which killed 7, sickened more than 2,000, many for life, and played a significant role in forcing the eventual resignation of Premier Mike Harris, a lengthy, independent investigation by Justice Dennis OConnor and known as the Walkerton Inquiry recommended sweeping reforms that would create a "multi-barrier" approach to drinking water safety.

Strong provincial oversight over all drinking water sanitation and delivery operations and professionalization of drinking water services management were Justice OConnors top priority. But the inquiry's final report stressed that it was equally important to protect sources of drinking water from being contaminated in the first place.

The province passed the drinking water sanitation reforms, but had been waffling on source watershed protection until public pressure forced the government to appoint a committee in late 2002 to recommend the specific measures needed to do the job. An advisory committee's report led to the February release of a White Paper finally outlining the governments plans.

Source protection comments

Following the general outline of previous recommendations, the White Paper suggests establishing planning boards, based on the provinces existing, watershed-based Conservation Authorities, to draw up plans for preventing contamination of drinking water.

The Canadian Environmental Law Association has been closely monitoring the governments source protection initiative. CELA substantially agreed with the recommendations of the White Paper, but thought it needed strengthening in nineteen general areas. Some of the highlights include:

1. The source water protection legislation should contain a paramountcy clause indicating that the legislation prevails over other special or general Acts in cases of conflict.
2. The source water protection legislation should expressly require meaningful public and agency participation at each significant step of the planning process, and, among other things, the legislation shall provide for the use of: EBR Registry notices, media

releases, newsletters, public meetings, open houses, workshops, and other appropriate consultation tools.

3. There must be an express legislative linkage between the source protection legislation and the permit to take water regime under the Ontario Water Resources Act. The permit to take water regime must be amended in several key respects, such as data collection, public consultation, water conservation/efficiency, monitoring/reporting, documentary requirements, and procedural steps, to ensure consistency with approved Source Water Protection Plans and the provincial-state Annex 2001 initiative to consistently improve water management across the Great Lakes basin.

4. Source water protection planning and implementation should be financed by various levies and charges based upon user pay and polluter pay principles, such as water rates, water-taking levies, and effluent charges, to ensure sustainable funding for source protection programs.

5. The source water protection legislation must ensure that for vulnerable or sensitive sources, groundwater should be protected at a level that meets current drinking water quality standards, and surface water should be protected at a level that meets the Provincial Water Quality Objectives.

Water takings comments

Great Lakes United focused its comment on the White Papers proposals to strengthen the process for permitting water takings throughout the province, and for instituting charges for some water takings. Among GLUs twenty-one recommendations:

Water takings permitting comments

1. The most important basis for deciding if a water takings will be harmful (and therefore whether the taking should be permitted) is thorough knowledge of general watershed flow characteristics. Therefore the province should obtain substantial information about when and how water flows in the ground and in streams and rivers throughout the province.

2. The provinces water takings permit system should be closely linked to the new source watershed protection planning system, because the source protection plans will provide the most comprehensive basis of local flow and takings information, and over time water takings will have a significant impact on the success of source watershed protection plans.

3. The water takings permitting program should strongly encourage water conservation practices by all permit holders. In most cases, speaking generally, minimizing takings maximizes drinking water and ecosystem protection.

4. Water takings permit decision-making should be forward-looking, based on likely future water takings needs and future water availability conditions, such as drought cycles and climate change. This is a second important reason why water takings permitting should be closely linked with source watershed protection planning.

5. The water takings permit program should be designed to encourage public participation. Pervasive public involvement will improve provincial decision making,

reveal flaws in the permitting system, and ensure the maximum degree of municipal support for the new system.

Water takings charging comments

6. The purpose of water takings charges should be to require water takers and users to financially value the known and unknown drinking water quality and ecosystem services provided by water in its natural state.

7. All water takings charges should be legislatively dedicated to supporting source watershed drinking water and ecosystem protection programs.

8. Any variations in water takings charges should have a scientific basis in either degree of harm to drinking water or ecosystem or degree of uncertainty regarding such harm.

9. Water takings charges should be applied to all water takers, with exceptions for hardship and conflict with certain other public purposes. At minimum, water taken for fire protection, temporary humanitarian purposes, growing or raising food by families, or protecting or restoring an ecosystem should not be subject to charges.

Comment logistics

Your comment should reference EBR Registry # PA04E0003 and be sent to Dawn Landry, Policy Adviser, Strategic Policy Branch, Ministry of the Environment, 135 St. Clair Ave. W., 11th floor, Toronto, Ontario, M4V 1P5, (416) 314-4130, fax: -2976, dawn.landry@ene.gov.on.ca.

For more information

Canadian government official EBR notice:
<http://www.ene.gov.on.ca/envregistry/022412ep.htm>

Great Lakes United's Web site, with comment focused on water takings permitting and charges: <http://www.glu.org/english/projects/special-projects/source-water/sourcewater.html>

The Canadian Environmental Law Association Web site, with overall comments:
http://www.cela.ca/water/source_protectionfeb04.htm

GREAT LAKES UNITED ANNUAL MEETING

Mark your calendars for Great Lakes United's Annual General Meeting, the weekend of June 4-6, at Mercyhurst College near Erie, Pennsylvania. The theme is From Experience to Action -- Lake Erie Dead Zone: Our Line in the Sand. In addition to the usual coalition business and celebration, this year's meeting will take stock of Lake Erie, the region's indicator lake. Come and share your own local experiences of change throughout the Great Lakes-St. Lawrence system.

For more detailed information, connect to www.glu.org, or contact the Bonnie Danni at the Great Lakes United office, 716-886-0142, bonnie@glu.org.

Great Lakes Uniteds Sustainable Waters Watch is produced by Great Lakes Uniteds Sustainable Waters Task Force with support from the Charles Stewart Mott Foundation, the Hahn Family Foundation, The Joyce Foundation, and our member organizations and individuals. The task force is committed to protecting and restoring the natural quantity and flow of water in the Great Lakes - St. Lawrence River ecosystem. To subscribe, unsubscribe, or send stories, contact Reg Gilbert at reg3@glu.org or (716) 886-0142. Visit us on the Web or become a member of Great Lakes United at www.glu.org.